

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JOSEPH TRUJILLO,

Plaintiff,

v.

No. 1:20-cv-00826-KWR-GBW

CAPTAIN MAESTAS, *et al.*,

Defendants.

ORDER DENYING MOTIONS TO DISMISS

THIS MATTER comes before the Court upon the Defendant Captain Maestas' Motion to Dismiss Plaintiff's Amended Complaint (**Doc. 34**), and Defendant Northeast New Mexico Detention Facility's and Defendant New Mexico Corrections Department's Motion to Dismiss Plaintiff's Amended Complaint (**Doc. 38**). For the reasons stated below, the Court finds the motions are **NOT WELL TAKEN**, and are therefore **DENIED**.

Defendants essentially challenge whether the allegations in the complaint rise to the level of a violation of Eighth Amendment. The Court already addressed this argument in prior opinions and found that the allegations state a plausible claim for deliberate indifference in violation of the Eighth Amendment. *See Doc. 17 at 2*. Now, a *Martinez* report has been filed. The Court sees no reason to deviate from its prior rulings on the sufficiency of the allegations, especially when the Court can rule on the facts in the *Martinez* report or on summary judgment. Therefore, the Court denies the motions to dismiss.

The Court previously entered a referral order to Chief United States Magistrate Judge Gregory Wormuth. For clarity, the Court will again refer the remainder of the case by separate order for proposed findings of fact and conclusions of law, for final disposition of the case.

IT IS SO ORDERED.



KEA W. RIGGS
UNITED STATES DISTRICT JUDGE